

A bill for an act

relating to insurance; providing recovery of damages and attorney fees for breach of an insurance policy; amending Minnesota Statutes 2008, section 471.982, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 60A.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **[60A.0811] BREACH OF INSURANCE POLICY; RECOVERY OF DAMAGES AND ATTORNEY FEES.**

Subdivision 1. Definitions. For purposes of this section:

(1) "insurance policy" means a commercial or professional insurance policy or contract other than:

(i) a workers' compensation insurance policy or contract;

(ii) a health insurance policy or contract issued, executed, renewed, maintained, or delivered in this state by a health carrier as defined in section 62A.011, subdivision 2;

(iii) a life insurance or disability insurance policy or contract; or

(iv) a policy or contract issued by a township mutual fire insurance company or farmers mutual fire insurance company operating under chapter 65A or 67A;

(2) "insured" means any named insured, additional insured, or insured under an insurance policy; and

(3) "insurer" means an insurer:

(i) incorporated or organized in this state; or

(ii) admitted, authorized, or licensed to do business or doing business in this state but not incorporated or organized in this state. Insurer does not include the joint underwriting association operating under chapter 62F or 62I; or a township mutual fire insurance company or farmers mutual fire insurance company operating under chapter 65A or 67A.

2.1 Subd. 2. **Interest.** (a) An insured who prevails in any claim against an insurer based
2.2 on the insurer's breach, repudiation or denial of, failure to fulfill, or delay in fulfilling, a
2.3 duty to provide services or make payments is entitled to recover seven percent per annum
2.4 interest on monetary amounts due under the insurance policy, calculated from the date the
2.5 request for payment of those benefits was made to the insurer.

2.6 (b) Punitive damages or damages for nonmonetary losses are not recoverable
2.7 under this section.

2.8 Subd. 3. **Effect of arbitration under section 65B.525.** If an insurer agrees to
2.9 liability for personal injury protection, uninsured, or underinsured benefits under a policy
2.10 of private passenger vehicle insurance under chapter 65B and only the amount of benefits
2.11 is disputed, the insured is not entitled to recover attorney fees under this section if the
2.12 insurer agrees to submit the dispute to binding arbitration or if binding arbitration is
2.13 required under section 65B.525.

2.14 Subd. 4. **Application.** This section applies to a court action or arbitration
2.15 proceeding, including an action seeking declaratory judgment.

2.16 **EFFECTIVE DATE.** This section is effective August 1, 2009, and applies to a
2.17 cause of action arising on or after that date.

2.18 Sec. 2. Minnesota Statutes 2008, section 471.982, subdivision 3, is amended to read:

2.19 Subd. 3. **Exemptions.** Self-insurance pools established and open for enrollment
2.20 on a statewide basis by the Minnesota League of Cities Insurance Trust, the Minnesota
2.21 School Boards Association Insurance Trust, the Minnesota Association of Townships
2.22 Insurance and Bond Trust, or the Minnesota Association of Counties Insurance Trust
2.23 and the political subdivisions that belong to them are exempt from the requirements of
2.24 this section and ~~section~~ sections 65B.48, subdivision 3, and 60A.0811. In addition, the
2.25 Minnesota Association of Townships Insurance and Bond Trust and the townships that
2.26 belong to it are exempt from the requirement to hold the certificate of surety authorization
2.27 issued by the commissioner of commerce as provided in section 574.15.